

## Director's Report and Recommendations

### Commercial Code Clean-up Amendments

#### Overview

The Department of Planning and Development (DPD) is proposing amendments to the Land Use Code to clarify, improve, and make corrections to various commercial zoning provisions. These amendments are intended to address issues that have arisen during the two years of implementation of commercial zoning changes adopted by Council in Ordinance 122311 in December 2006. After comprehensive changes such as the 2006 legislation, it is commonplace to make revisions to reinforce the original intent. Four categories of amendments are proposed: use provisions and development standards; height limits; landscaping requirements; and parking. This report explains the amendments by sections of the ordinance, grouped by category. Minor changes (correcting typographical errors and outdated formatting, updating expired references) are proposed throughout the ordinance, but are not addressed in this report.

#### 1. Use provisions and development standards

The following changes are proposed in order to increase the consistency and clarity of provisions related to permitted and prohibited land uses, as well as development standards.

Ordinance Section	Land Use Code Section	Description of proposed change
Section 1, p. 1	23.41.012 B2 and B13 Development standard departures	Clarify that departures from development standards may be granted pursuant to design review for street-level uses in commercial as well as downtown zones. Also, clarify that departures may not be granted for minimum parking requirements.
Section 2, p. 4	23.47A.004 Permitted and Prohibited Uses	Live-work units are currently limited throughout pedestrian-designated zones. The proposed amendments would limit live-work units only along principal pedestrian streets and allow live-work units elsewhere in pedestrian zones, consistent with the allowance for other residential uses.
Section 3, p. 8	23.47A.005 Street-level uses.	Remove limits for residential uses along street-level, street facing facades if those uses are separated from the street lot line by an existing structure. Current code removes these limits if the residential uses will be separated from the street by a permitted project to be constructed in the

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
		<p>future; it is proposed that this provision is removed, because it is confusing and rarely used.</p> <p>The amendment would allow the addition of structures with street-level residential uses behind existing nonconforming structures. Allowing residential uses behind an existing nonconforming structure would not increase the nonconformity, and would not preclude future adaptation of the nonconforming structure to meet the street-level development standards. The amendments are proposed to clarify these provisions while preserving the intent to promote lively commercial streets.</p>
Section 4, p. 11	23.47A.006 Conditional uses	<p>Proposed amendments would simplify conditional use criteria for lodging in NC2 zones.</p> <p>The existing requirement for design review for new lodging structures is redundant; design review is already required for any development with 4,000 sq ft or more, and the few projects falling below this threshold would be subject to discretionary review (and appeal) as a conditional use.</p> <p>Also, existing code limits lodging to arterials that don't draw traffic through residential areas, which restricts lodging to areas adjacent to SR99 and I-5. Since 50-room hotels generate a low number of car trips compared to other uses permitted in NC2 zones, it is proposed that this condition be changed simply to access from an arterial.</p>
Section 5 p. 11	23.47A.008 Street-level development standards.	<p>Provide and clarify development standards for street-level uses, including reordering the blank façade standards for more logical organization.</p> <p>The code currently requires residential uses at street-level to be raised four feet or set back ten feet to provide privacy. As written, this applies to lobbies as well as dwelling units. The proposed changes would clarify that this only applies to dwelling units. Also, amendments are proposed to allow dwelling units to be four feet above or below grade to allow greater design flexibility and practical use of space below grade.</p>

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
Section 7, p. 26  p. 27	23.47A.013 Floor area ratio	<p>Reintroduce maximum FAR limits for any single use (i.e. residential or non-residential) within a mixed-use structure. Mixed-use development is encouraged by allowing additional floor area. Limits on individual uses were removed in 2006; without them, effectively single-purpose development is eligible for a substantial floor area bonus in zones with height limits of 65' or greater.</p> <p>In determining gross floor area subject to FAR limits, existing provisions exempt "gross floor area below existing or finished grade, whichever is lower," while other chapters only address "gross floor area above grade." This amendment would make the application of FAR limits in the commercial zones consistent with other zones.</p>
Section 8, p. 31  p. 32	23.47A.014 Setback requirements	<p>Amend setback requirements for structures with a residential use. For privacy, structures in a commercial zone that contain more than one dwelling unit are required to set back upper floors from a rear lot line that abuts a residential zone. Since one dwelling unit could infringe on privacy as easily as several, the amendment would apply the setback regardless of the number of units.</p> <p>Also, current language prohibits commercial uses from having windows or entrances closer than five feet to a residential zone. This is intended to protect privacy of residents living next to commercial uses, but it creates confusion for split-zoned lots straddling residential and commercial zones. The proposal clarifies the intent of this provision while resolving the split-zoned lot problem.</p>
Section 10, p. 47	23.47A.027 Landmark Districts and designated landmark structures	<p>The 2006 commercial code changes did not update provisions regarding designated landmarks and landmark districts. References to "width and depth" limits are proposed to be replaced with "floor area ratio" for consistency with the rest of the chapter. Additionally, amendments would allow street-level development standards to be added to a list of standards that the Director may waive or grant departures from for designated landmarks.</p>

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
Section 12, p. 53	23.50.012 Chart A Uses in industrial zones	Correct changes inadvertently made in 2006 to the Use Table for industrial zones. Errors inadvertently permitted schools in all industrial zones and prohibited sewage treatment plants where they are intended to be Council Conditional Uses.

## **2. Height limits.**

The following amendments are proposed to clarify existing height limit exceptions and add exceptions for additional circumstances.

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
Section 6, p. 19	23.47A.012 A2 Structure height	Amendments are proposed to clarify that when structures are built to a height limit of 65' along Broadway, the floor area ratio (FAR) permitted for zones with mapped height limits of 65' is applicable. This is consistent with the original intent of legislation adopted to permit the mapped height limit of 40' to be exceeded when certain conditions are met.
Section 6, p. 21	23.47A.012 C	An amendment is proposed to change the minimum roof slope from 3:12 to 4:12 for buildings using the height allowance for pitched roofs. 4:12 roofs are generally considered to be more compatible with existing structures in Seattle neighborhoods, and are better accepted by residents. The new minimum roof pitch would be consistent with the recently adopted single-family revisions and the proposed multifamily revisions.
Section 6, p. 24	23.47A.012 D	The code currently provides a height limit exception for elevator penthouses. An amendment is proposed to encourage the use of new energy-efficient elevator technologies, which need taller penthouse structures. Elevator penthouse height limits would be changed from 15 feet to 16-25 feet, depending on the height limit of the zone. Approval of height exceptions greater than 16 feet, allowable in zones with height limits of 125' or greater

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		<p>would require use of an energy-efficient elevator. The additional height is also applied to stair penthouses, provided they are collocated with the elevator, to allow for design consistency. The amendment is consistent with existing provisions for Downtown zones and proposed provisions for multifamily residential areas.</p> <p>Amendments are also proposed to allow a height limit exception for wind-driven power generators. The proposal would allow these generators to project 15 feet above the height limit, limited to 20 or 25% rooftop coverage (consistent with solar panels and other mechanical equipment). While these generators are less intrusive than other types of rooftop equipment and have environmental benefits, this provision may result in visual impacts for some projects. The proposal is consistent with proposed changes to the multifamily code.</p>

### 3. Landscaping requirements.

The Green Factor uses a weighted menu of landscape elements to promote attractive and ecologically functional sites. As the first landscaping standard of its kind in the United States, the Green Factor is being closely monitored to ensure its effectiveness.

Between January 2007 and April 2008, over 60 projects have been permitted pursuant to the commercial code provisions that require Green Factor compliance. DPD conducted an audit of 42 of these projects. The projects analyzed suggest that the requirement for commercial projects to meet a score of .30 (equivalent to landscaping 30% of the development site) is achievable and effective. Further, the Green Factor encourages the use of landscape features such as green roofs and permeable paving and is compatible with mixed use (residential and commercial uses) and commercial development.

Based on the audit, interviews with developers and landscape architects, and public feedback, DPD proposes the following amendments to clarify specific issues and add further design flexibility to the Green Factor. For a comparison of proposed and existing scoring systems see Appendices 1 and 2.

Ordinance Section	Land Use Code Section	Description of proposed change
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<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
Section 9, p. 34	23.47A.016 Landscaping and screening standards	Change the name of “Green Area Factor” to “Green Factor,” the intended name for the 2006 NBDS proposal.
Section 9, p. 34	23.47A.016 A2	Clarify that the Green Factor applies whether one building or multiple buildings are proposed meeting the minimum floor area threshold of 4,000 square feet. Experience with the existing provisions has revealed a loophole wherein a developer avoids landscaping by building multiple small structures instead of one large one.
Section 9, p. 34	23.47A.016 A3	Move procedure for calculating the Green Factor to Section 23.86.019, Measurements (see below). This move would create one place in the code to house the Green Factor and will help maintain consistency as the Green Factor is applied to other zones in the future.
Section 9, p. 37	23.47A.016 B	<p>Amendments are proposed to clarify that existing street trees shall be retained unless SDOT permits their removal, as per SDOT policy. The amendments would also reorder and simplify the description of SDOT’s criteria governing tree retention and planting.</p> <p>In addition, provisions are proposed that would require a five-foot planted setback with street trees if planting trees is not feasible in the right-of-way. In an effort to ensure that trees were installed in the right-of-way, these provisions were removed in the 2006 code changes. However, the flexibility to allow a planted setback is necessary for parcels that can’t accommodate street trees.</p>
Section 9, p. 43	23.47.A.016 Chart D	<p>Eliminate landscaping requirement for blank facades. This part of the table creates confusion when compared with the clearer treatment of facades in Section 23.47A.008.</p> <p>Also, enclosed parking garages adjacent to sidewalks are currently required to have both a five-foot deep landscaped area and be screened by an exterior wall of the structure. For consistency with other zones, such as downtown, it is proposed that garages in these circumstances be required to have either the planting strip</p>

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
		or the screening, not both.
Sections 16, 17 pp. 66-68	23.66.140 C Pioneer Square Preservation District, 23.74.010 Stadium Transition Area Overlay	Proposed amendments would update cross-references in overlay districts to correspond with changes in 23.47A.016 (Landscaping and screening standards).
Sections 18-23, p. 68-72	23.84A	Definitions are proposed to be updated to correspond with Green Factor revisions.
Section 24, p. 72	23.86.019	<p>Proposed amendments would establish a new section to explain the procedure to calculate Green Factor requirements. The following items are modifications to the scoring system formerly contained in 23.47A.016:</p> <ul style="list-style-type: none"> <li>• Clarify SDOT authority over landscape improvements in rights-of-way (ROW). ROW improvements such as plantings and permeable paving must be approved by the Director of SDOT.</li> <li>• Limit credit for permeable paving and structural soil (see below) to no more than one third of the total Green Factor score. This would ensure that plantings continue to play a prominent role in required landscaping.</li> <li>• Restructure landscaped area and planting categories to clarify intent and improve ease of use. While the original A1 and B1 credits on the score sheet were intended to reward unpaved areas allowing plants and infiltration, the provisions led many to see these credits as inappropriate incentives for planting lawns.</li> <li>• Separate rain gardens into their own category, change the name to “bioretention areas” for consistency with SPU terminology, and increase the credit from 0.7 to 1.0. Bioretention areas provide substantial ecological and aesthetic benefits, and play an increasingly important role in stormwater management. Increasing the credit would strengthen the relationship between</li> </ul>

Ordinance Section	Land Use Code Section	Description of proposed change
		<p>the Land Use and Stormwater Codes.</p> <ul style="list-style-type: none"> <li>• Reduce the minimum height for shrubs from three to two feet for consistency with SDOT landscaping standards in the right-of-way.</li> <li>• Add large perennials to the shrub credit to encourage diverse plantings.</li> <li>• Change the term “exceptionally large trees” to “large existing trees” and reduce the required size of such trees. The new proposed existing tree credit is based on trunk diameter, so the amount of credit awarded is correlated to tree size. These changes would further reward preservation of existing trees, helping respond to public concerns about loss of large existing trees.</li> <li>• Increase flexibility for green roof and permeable pavement credits, to allow for use of these technologies in a wider range of circumstances. In both cases, partial credits are added for shallower installations (i.e., green roofs with a thinner layer of growth medium and permeable paving over a shallower soil profile).</li> <li>• Add a new credit for structural soil and similar technologies. Structural soil is an engineered aggregate mix that allows compaction to SDOT standards within the street right-of-way while encouraging healthier root growth and better street tree survival.</li> <li>• Qualify water features under water six months of the year (rather than nine months). Together with the requirement that water features get 50% of water from harvested rain, the nine month requirement was difficult to meet.</li> <li>• Further encourage rainwater harvesting by separating it into its own category and raising its credit.</li> <li>• Modify the drought-tolerant plant bonus credit to explicitly include native plants.</li> <li>• Add a bonus credit for food cultivation areas.</li> </ul>



#### 4. Parking


The following amendments are proposed to parking requirements.

Ordinance Section	Land Use Code Section	Description of proposed change
Sections 2 and 11, pp. 6, 50	23.47A.004 Chart A Uses in Commercial Zones, and 23.47A.032 Parking location and access	Explicitly prohibit surface parking adjacent to principal pedestrian streets in pedestrian-designated zones.
Section 11, p. 48	23.47A.032 Parking location and access	<p>Amend requirements for parking location and access to make them clearer and more consistent other chapters of the Land Use Code:</p> <ul style="list-style-type: none"> <li>• Consolidate requirements related to street-level parking in this section for code simplification.</li> <li>• Require parking access from an alley whenever the Director determines that alley access is feasible and desirable as a Type I decision. Apply the same requirement for loading berths. These changes are consistent with proposed changes for multifamily residential zones.</li> <li>• Allow parking at grade in NC and pedestrian-designated zones, provided that it is separated from the street-facing facades by another permitted use. This maintains integrity of the pedestrian street, but allows greater flexibility for meeting parking requirements.</li> <li>• Allow that if a lot abuts an unopened right-of-way that is unlikely to be opened or improved, parking access and location requirements may be applied as if the unopened right-of-way didn't exist.</li> <li>• Currently, the Director determines the front lot line for purposes of parking access only if a lot has equal</li> </ul>

<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
		<p>amounts of commercially-zoned frontage on two or more streets. For parcels with different lengths of frontage on multiple streets, parking access is allowed from the side with the least frontage – this standard doesn't necessarily correspond to which street has more traffic. It is proposed that the Director make this decision any time a lot fronts on two or more streets, regardless of frontage lengths.</p>
<p>Section 13, p. 54</p>	<p>23.54.015 Required parking</p>	<ul style="list-style-type: none"> <li>• Clarify that parking requirements are waived for commercially zoned lots in either urban centers or in station area overlay districts (it isn't necessary to be in both).</li> <li>• Current code requires excessive parking for participant sports and recreation uses. It is proposed to modify the parking requirement for these uses from one space per 100 sq. ft. to one space per 500 sq. ft. This proposal is based on guidelines from the Institute of Transportation Engineers and comparison with requirements in other cities.</li> <li>• Make parking requirements for live-work uses consistent with requirements for similar uses. Exempt units 1,500 sq. ft. or smaller, and require one space for each unit greater than 1,500 sq. ft. Also, require parking as appropriate for any nonresidential activity classified as a principal use.</li> <li>• Clarify language regarding reduced parking requirements for low-income housing. Existing language stating that the reduction only applies "outside of commercial zones in urban centers" implies that housing in urban centers need more parking. In fact, no uses in commercial zones in urban centers require parking.</li> </ul>
<p>Section 14, p. 60</p>	<p>23.54.020 Parking quantity exceptions</p>	<p>Reduce parking requirement for residential uses by 20 percent when uses are located within 800 feet of a street with frequent transit service.</p>


<b>Ordinance Section</b>	<b>Land Use Code Section</b>	<b>Description of proposed change</b>
Section 15, p. 65	23.54.030 F Parking space standards	Current language states that the Director will “make a recommendation” on curb cuts in C1, C2, and SM zones, which implies that the final decision is at the discretion of the permit applicant. New language is proposed, stating that the Director determines the number and location of curb cuts to be permitted in these zones.

## Appendix 1: Proposed Green Factor Score Sheet

DRAFT REVISIONS 12/01/08				
Project title:		SEATTLE 		
Parcel size (enter this value first) *		enter sq ft of parcel	minimum score determined by zone	
		0	SCORE	#DIV/0!
<b>Landscape Elements**</b>		<b>Square Feet</b>	<b>Factor</b>	<b>Total</b>
<b>A Landscaped areas (select one of the following for each area)</b>				
1	Landscaped areas with a soil depth of less than 24"	enter sq ft 0	0.1	-
2	Landscaped areas with a soil depth of 24" or greater	enter sq ft 0	0.6	-
3	Bioretention facilities	enter sq ft 0	1.0	-
<b>B Plantings (credit for plants in landscaped areas from Section A)</b>				
1	Mulch, ground covers, or other plants less than 2' tall at maturity	enter sq ft 0	0.1	-
2	Plants 2' or taller at maturity - calculated at 16 sq ft per plant (typically planted no closer than 18" on center)	enter number of plants 0	0.3	-
3	Tree canopy for "small trees" in SDOT's Street Tree Planting Schedule or equivalent (canopy spread of 15') - calculated at 50 sq ft per tree	enter number of plants 0	0.3	-
4	Tree canopy for "small/medium trees" in Street Tree Planting Schedule or equivalent (canopy spread of 20') - calculated at 100 sq ft per tree	enter number of plants 0	0.3	-
5	Tree canopy for "medium/large trees" in Street Tree Planting Schedule or equivalent (canopy spread of 25') - calculated at 150 sq ft per tree	enter number of plants 0	0.4	-
6	Tree canopy for "large trees" in in Street Tree Planting Schedule or equivalent (canopy spread of 30') - calculated at 200 sq ft per tree	enter number of plants 0	0.4	-
7	Tree canopy for preservation of "exceptional trees" or other large existing trees 6"+ diameter - calculated at 15 sq ft per inch DBH	enter inches DBH 0	0.8	-
<b>C Green roofs</b>				
1	Over at least 2" and less than 4" of growth medium	enter sq ft 0	0.4	-
2	Over at least 4" of growth medium	enter sq ft 0	0.7	-
<b>D Vegetated walls</b>				
		enter sq ft 0	0.7	-
<b>E Approved water features</b>				
		enter sq ft 0	0.7	-
<b>F Permeable paving***</b>				
1	Permeable paving over at least 6" and less than 24" of soil or gravel	enter sq ft 0	0.2	-
2	Permeable paving over at least 24" of soil or gravel	enter sq ft 0	0.5	-
<b>G Structural soil systems***</b>				
		enter sq ft 0	0.2	-
		sub-total of sq ft =	0	
<b>H Bonuses</b>				
1	Drought-tolerant or native plant species	enter sq ft 0	0.1	-
2	Landscaped areas where at least 50% of annual irrigation needs are met through the use of harvested rainwater	enter sq ft 0	0.2	-
3	Landscaping visible to passersby from adjacent public right of way or public open spaces	enter sq ft 0	0.1	-
4	Landscaping in food cultivation	enter sq ft 0	0.1	-
		Green Factor numerator =		-

\* Do not count public rights-of-way in parcel size calculation.  
 \*\* To calculate your score, you may count landscape elements that are in rights-of-way if they are contiguous with the parcel.  
 \*\*\* Permeable paving and structural soil together may not qualify for more than one third of the Green Factor score.

## Appendix 2: Existing Green Factor Score Sheet

SEATTLE <i>green factor</i> 				
FINAL VERSION 3-9-07				
Parcel size (ENTER THIS VALUE FIRST)*		enter sq ft of parcel	You need at least 0.300	
		1	SCORE	-
Types of Area**	Square Feet	Factor	Total	
<b>A Vegetation planted with a soil depth of less than 24"</b>				
1 Lawn or grass pavers or ground covers	enter sq ft 0	0.2	-	
2 Plants and shrubs 3' and higher at maturity	enter number of plants 0	0	0.3	-
<b>B Vegetation planted with a soil depth of more than 24"</b>				
1 Lawn, grass pavers or other plants less than 3' tall at maturity	enter sq ft 0	0.7	-	
2 Shrubs taller than 3' at maturity - calculated at 16 sq ft per plant (typically planted no closer than 18" on center)	enter number of plants 0	0	0.3	-
3 Tree canopy for "small trees" in SDOT's Street Tree Planting Schedule or equivalent canopy spread of 15' - calculated at 50 sq ft per tree	enter number of plants 0	0	0.3	-
4 Tree canopy for "small/medium trees" in Street Tree Planting Schedule or equivalent canopy spread of 20' - calculated at 100 sq ft per tree	enter number of plants 0	0	0.3	-
5 Tree canopy for "medium/large trees" in Street Tree Planting Schedule or equivalent canopy spread of 25' - calculated at 150 sq ft per tree	enter number of plants 0	0	0.4	-
6 Tree canopy for "large trees" in in Street Tree Planting Schedule or equivalent canopy spread of 30' - calculated at 200 sq ft per tree	enter number of plants 0	0	0.4	-
7 Tree canopy for preservation of "exceptional trees" or trees with trunk diameter exceeding 24" at four and one half feet above the ground. calculated at 250 sq ft per tree	enter number of plants 0	0	0.5	-
8 Permeable paving that drains only itself. It must be at grade. - calculated per square foot	enter sq ft 0	0.6	-	
C Green roofs - 4" minimum soil depth at time of planting	enter sq ft 0	0.7	-	
D Vegetated walls	enter sq ft 0	0.7	-	
E Water features (fountains) or rain gardens (where allowed by SPU)	enter sq ft 0	0.7	-	
sub-total of sq ft =		0		
<b>Bonuses</b>				
F Landscaping using drought tolerant plants or where at least 50% of annual irrigation needs are met from non-potable sources	enter sq ft 0	0.1	-	
G Landscaping visible to passers-by from adjacent public right of way or public open spaces	enter sq ft 0	0.1	-	
green factor numerator =		-		